

REMARKS

The Examiner's action of December 8, 2009 is noted in which the claims are rejected as being anticipated by or obvious over the Schoenberg, Chaco et al. and Zak et al. references.

At the outset Applicant has canceled Claims 1-9 without prejudice to further the prosecution of the case and to make clear that the reduction to practice in all of the Rule 131 Declarations reads on Claim 10.

As the Examiner is undoubtedly aware, Applicant is swearing behind the Schoenberg and Zak et al. references. With the removal of these references the Examiner must allow this case because the Examiner relies on them for the rejections of the claims.

The Examiner seems to be confused as to who Samir Tahan is. The Examiner in his Office Action states that Mr. Tahan is the named inventor referring to the Declarant Samir Tahan. However, Samir Tahan is not A. Christian Tahan who is the inventor. Thus, the Samir Tahan Declaration is in fact "evidentiary" and is in no way self serving as the Examiner claims. Presumably the Examiner is confused as to the identity of Samir Tahan because he has the same last name as the inventor. Removal of this objection is requested.

Moreover, the Examiner says that of the Samir Tahan Declaration

"there is no mention of patient information being wirelessly uploaded from the remote site to a global database."

However paragraph 2 of the Samir Tahan Declaration states

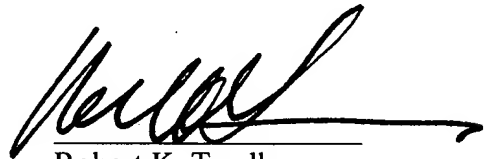
“that the actual reduction to practice included a demonstration that patient information was wirelessly uploaded from a remote site ...to a global database.”

Thus, the Examiner is simply wrong in his conclusions as to the Samir Tahan Declaration.

While it is understandable that the Examiner might be confused as to the identity of the Declarant, with the resolution of this confusion the Examiner must remove the two references from consideration and allow the case.

Allowance of the claims and issuance of the case is therefore earnestly solicited.

Respectfully submitted,



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